

**REMARKS**

Claims 1-18 are pending in this application. Claims 1, 13, and 16 are independent claims. Claims 2-12, 14, 15, 17, and 18 are dependent claims.

Claims 1-18 have been rejected. Claim 19 is newly added in this response. The specification has been amended to improve form. No new matter is being presented, and approval and entry are respectfully requested.

**Changes To The Specification**

Changes have been made to the specification only to place it in preferred and better U.S. form for issuance. No new matter has been added.

**Rejections Under 35 U.S.C. § 102**

In numbered paragraph 5 on pages 2-7 of the Office Action, the Examiner rejected claims 1-18 under 35 U.S.C. § 102(e) as being anticipated by Agarwal et al. (U.S. Patent Publication No. US 2002/0146096). Applicants respectfully traverse these rejections for the reasons presented below.

**Agarwal et al. Is Not Prior Art**

The effective date of the Agarwal reference is April 9, 2001. As indicated in the attached Declaration under 37 C.F.R. 1.131, the inventors of the subject application conceived the idea of selecting a delivery mechanism for a message, by a sender of the message creating a priority table of delivery devices for a recipient of the message, before the effective date of the Agarwal reference. Therefore, it is submitted that the Agarwal reference is not a valid prior art reference. Withdrawal of the rejections on this basis is requested.

The Present Invention Is Not Anticipated

Even assuming, *arguendo*, that Agarwal is prior art, the present invention distinguishes over the prior art.

Claim 1 recites “**creating, by a sender of the message, a priority table of delivery devices of a recipient of the message**; selecting a delivery device from the priority table having the highest priority and sending the message to the selected device; and continuing, if the recipient did not receive the message using the highest priority delivery device, to sequentially select another delivery device according to the priority table and send the message to the selected delivery device, until the recipient receives the message” (emphasis added).

As specified in claim 1, the sender of the message creates a priority table of delivery devices of a recipient of the message. The Examiner asserted on page 2 of the Office Action that the “authorized person” specified in paragraph [0134] of Agarwal discloses the “sender of the message” as recited in claim 1.

However, paragraph [0134] of Agarwal states that the authorized person creates an e-mail message that includes the userid, password, authorization code, host name, and a command number to execute, which is information a system administrator would provide, not a typical sender of a message. In fact, paragraph [0074] of Agarwal states that INI parameters are set by a system administrator, and paragraph [0143] of Agarwal discloses that a system administrator sets up records in the INI file related to the escalation devices identified in paragraphs [0144] to [0151].

In addition, the present invention allows the sender of a message to dynamically customize transmission of each message based on the intended recipient, which is not a task a system administrator would perform. Thus, in Agarwal, a system administrator, rather than the sender of a message, creates the escalation records.

Further, paragraph [0130] of Agarwal discloses that an authorized person, identified as a server administrator, has the ability to execute commands on certain hosts using his or her messaging device as a remote control. In the example provided in paragraphs [0130] and [0131], the server administrator receives an alert message via a telephone voice message indicating that a certain host may be malfunctioning. The server administrator is able to execute

predefined commands (e.g., reboot) after entering a valid userid, password, and authorization code, using the telephone keypad as a remote control.

The authorized person can also use e-mail for the remote control by entering the userid, password, authorization code, host name, and command number to execute in a message having a predefined format. While the authorized person creates a message, transmission of the message does not involve selection of a delivery device from a priority table having the highest priority and sending the message to the selected device, as claimed in claim 1.

Therefore, it is submitted that claim 1 patentably distinguishes over the prior art. Similar to claim 1, independent claim 13 recites "a preferences and profile database containing a priority table, created by a sender of the message, or delivery devices of a recipient of the message," and independent claim 16 recites "creating, by a sender of the message, a priority table of delivery devices of a recipient of the message." Thus, it is submitted that independent claims 13 and 16 patentably distinguish over the prior art.

Dependent claims 2-12, 14, 15, 17, and 18 depend respectively from the above-discussed independent claims 1, 13, and 16 and are patentable over the prior art for at least the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art.

For example, claim 2 recites "determining the reachability of the recipient before sending the message to the selected delivery device." In the present invention, before sending a message, a priority delivery selection logic system 30 first verifies the availability or reachability of the recipient. For example, if the priority table specifies sending a message to the recipient using instant messaging (IM) delivery, the priority delivery selection logic system 30 first checks IM address online presence, which determines whether the recipient is available on a specific device. See paragraph [0033] of the subject application.

The Examiner asserted on page 3 of the Office Action that paragraph [0162] of Agarwal discloses that a sender can inherently update the escalation method according to the reachability of the recipient. However, paragraph [0162] of Agarwal relates to sending a message to as many destinations as possible until one of the messages reaches the recipient, and does not address first checking the availability of the recipient and then sending the message.

Therefore, for at least this reason and the reasons set forth above with respect to claim 1, it is submitted that the dependent claims patentably distinguish over the prior art.

Therefore, Applicants submit that claims 1-18 patentably distinguish over the prior art. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under § 102.

### **New Claim**

Claim 19 is newly added with this response to alternatively define the present invention. Claim 19 recites "receiving priority tables of delivery devices, respectively, for each of a plurality of message recipients, the priority tables being customized for each message recipient; allowing the priority tables to be dynamically changed for each message recipient ..." These features are not taught or suggested by the cited reference. Thus, for at least the reasons presented above, Applicants submit claim 19 patentably distinguishes over the prior art. Accordingly, Applicants respectfully request allowance of the new claim.

### **Conclusion**

In accordance with the foregoing, it is respectfully submitted that all outstanding rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding rejections, the application is submitted to be in condition for allowance, which action is earnestly solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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Finally, if there are any additional fees associated with filing of this response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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